

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOHN M. CARTER,)	
)	
Plaintiff,)	4:05CV3159
)	
v.)	
)	
PAULINE SMITH, KIMBERLY)	MEMORANDUM AND ORDER ON
LORENZO, CORNHUSKER BANK,)	PLAINTIFF'S MOTIONS TO DISMISS
ADAM WERTHEIMER, SAN DIEGO)	DEFENDANT TRANS-UNION
COUNTY CHILD SUPPORT SERVICES,)	
LOUISIANA DEPARTMENT OF SOCIAL)	
SERVICES, JEFFERSON PARISH, DOES)	
1-10, STEPHEN A. ARONIS, and TRANS-)	
UNION,)	
)	
Defendants.)	
)	

On July 18, 2005, the plaintiff, John M. Carter, filed an amended complaint against Defendants Pauline Smith; Kimberly Lorenzo; Cornhusker Bank; Adam Wertheimer; Stephen A. Aronis; Trans-Union, LLC; San Diego County Child Support Services; Louisiana Department of Social Services; Jefferson Parish District Attorney's Office; and "Does 1-10, inclusive," alleging violations of the Fair Credit Reporting Act (FCRA), 15 U.S.C. §§ 1681 et seq., and a number of causes of action based upon state law. (See generally Am. Compl., filing 5.) On August 10, 2005, Defendant Trans-Union, LLC, filed an answer to the amended complaint. (See filing 28.) Now before me is the plaintiff's motion to dismiss Defendant Trans-Union, LLC, which also includes a request for leave to amend the complaint. (See filing 77.) The plaintiff's motion to dismiss shall be granted; however, his motion for leave to file a second amended complaint shall be denied.

Since Trans-Union, LLC has filed an answer and since the plaintiff has not filed a stipulation of dismissal signed by all of the parties who have appeared in the action, the plaintiff cannot voluntarily dismiss Trans-Union, LLC from this action absent an order of the court. See

Fed. R. Civ. P. 41(a). Here, the plaintiff's motion to dismiss Trans-Union, LLC has not been opposed, and I am aware of no reason why it should not be granted. Therefore, Defendant Trans-Union, LLC, will be dismissed from this action.

The plaintiff has also requested "leave to amend the complaint to delete Trans-Union from the caption, and delete references to Trans-Union within the body of the complaint." (Filing 77 at 1.) It strikes me that this is unnecessary; moreover, the plaintiff has not complied with Nebraska Civil Rule 15.1(a), which requires him to "file as an attachment to the motion [to amend] an unsigned copy of the proposed amended pleading" and "state whether the motion is unopposed," among other things. I shall therefore deny the plaintiff's request for leave to amend the complaint.

IT IS ORDERED that:

1. The plaintiff's motion to dismiss Defendant Trans-Union, filing 77, is granted in part;
2. The plaintiff's claims against Defendant Trans-Union, LLC are dismissed without prejudice; and
3. The plaintiff's request for leave to amend the complaint is denied.

Dated March 21, 2006.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge